

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Troy N. MacDermott,

Civil No. 24-1234 (DWF/DJF)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Benjamen Shelabarger, *also known as*
Benjamin Shelabarger, and Warden
Jared Rardin,

Defendants.

This matter is before the Court upon *pro se* Defendant Benjamen Shelabarger's objections (Doc. No. 53) to the Report and Recommendation of United States Magistrate Judge Dulce J. Foster dated November 13, 2024 (Doc. No. 48).

The Court has conducted a *de novo* review of the record, including a thorough review of Defendant's objections, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Defendant's objections. In the November 13, 2024 Report and Recommendation, the Magistrate Judge recommended that Defendant's motion to dismiss the amended complaint (Doc. No. 34) be denied in its entirety. The Magistrate Judge found that Defendant's challenges to the complaint on both jurisdictional and sufficiency grounds fail, explaining that Plaintiff has adequately pleaded his claims against Defendant at this stage in the proceedings.

In his objections, Defendant argues Plaintiff filed this lawsuit to slander Defendant and, in that vein, Plaintiff has lied and perjured himself to retaliate against Defendant after Defendant outed Plaintiff as a “puppy abuser.” In support of his objections, Defendant puts forth his case in detail, including numerous factual details that will involve discovery and are appropriately left to resolution at the summary judgment stage. Therefore, the Court finds Defendant’s objections to the Report and Recommendation unpersuasive.

Based upon the careful *de novo* review of the Report and Recommendation and the record in this case, the Court hereby enters the following:

ORDER

1. Defendant’s objections (Doc. No. [53]) to Magistrate Judge Dulce J. Foster’s November 13, 2024 Report and Recommendation are **OVERRULED**.
2. Magistrate Judge Dulce J. Foster’s November 13, 2024 Report and Recommendation (Doc. No. [48]) is **ADOPTED**.
3. Defendant Benjamin Shelabarger’s Motion to Dismiss the Amended Complaint (Doc. No. [34]) is **DENIED**.

Dated: January 8, 2025

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge